

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

IN THE MATTER OF ESTABLISHING)	
A UNIFORM POLICY FOR THE)	ADMINISTRATIVE ORDER
DUPLICATION OF EXHIBITS FOR)	NO. 2007-020
CRIMINAL CO-DEFENDANT MATTERS)	
_____)	

WHEREAS, in order to ensure the integrity of exhibits in criminal co-defendant matters; and

WHEREAS, in order to be in compliance with Arizona Rules of Criminal Procedure, 31.9(a), directing that the Clerk's Office shall have 45 days after the filing of an appeal to transmit to the Appellate Court a copy of the pleadings, documents, and minute entries, and the original paper and photographic exhibits of a manageable size filed with the Clerk of the Superior Court; and

WHEREAS, in order to establish an unbroken chain of custody relating to criminal co-defendant exhibits for trial and appeal purposes; and

WHEREAS, in order to be in compliance with the Appellate Court's Order directing that co-defendant exhibits on appeal which are presently filed with the Court of Appeals and are ordered to be temporarily released for use in Superior Court, are to be returned to the Court of Appeals in an unaltered condition; and

WHEREAS, in order to be in compliance with returning exhibits to the Appellate Court in an unaltered condition, it is necessary to establish a uniform policy of receiving, remarking and returning exhibits in co-defendant cases to the Appellate Court, and in keeping with Rules of Evidence, Rule 1001(4).

IT IS ORDERED that:

IN ALL CRIMINAL CO-DEFENDANT SEVERED TRIALS

All criminal co-defendant severed cases shall be required to have duplicate exhibits prepared by the State's Attorney (i.e., County Attorney, Arizona Attorney General and U.S. Attorney General) at the time of trial.

Exhibits that have been used for the trial of one defendant may NOT be used for the trial of a co-defendant. Rather, the State's Attorney shall prepare a duplicate set of exhibits for each defendant in severed cases at the time of trial.

The State's Attorney will be responsible for the duplication of any and all co-defendant exhibits, with the exception of large bulky and security exhibits which can be remarked for the co-defendant trial. The Court notes that security exhibits (i.e. narcotics, weapons, currency, hazardous materials and biological evidence, etc.) are not transferred to the Appellate Court and pursuant to Arizona Rules of Criminal Procedure, Rule 31.8(2) (iii). Security exhibits may be temporarily released to the courtroom clerk for remarking for the co-defendant trial. Upon conclusion of the co-defendant trial, said remarked security exhibits, upon return to the Clerk's Office Exhibit Section, shall have the original tags affixed to them. The exhibit worksheet description for the co-defendant case will document the remarking of the security exhibits indicating that exhibits were used in a prior hearing by referencing the previous exhibit number, the previous hearing/trial date and the cause number if the exhibits were used in a case other than the instant case.

IN ALL CRIMINAL CO-DEFENDANT CONSOLIDATED TRIALS

In cases where co-defendants are consolidated for trial, only one set of exhibits will be required for the trial. If an appeal on only one or a portion of the co-defendants should go before the Court of Appeals, the State's Attorney would be required (at that time) to make duplicate copies of the trial exhibits to follow the affected defendant or defendants to the Court of Appeals, thereby leaving an unaltered set of exhibits in Superior Court for any subsequent appeals for the remainder of the co-defendants.

PROCEDURE FOR DUPLICATION OF EXHIBITS

The State's Attorney shall be instructed by minute entry order by the trial court requiring the duplication of co-defendant exhibits prior to the commencement of trial in the subsequent co-defendant trial.

The Clerk's Office Exhibit Section shall be the centralized repository for all duplication requests. The Clerk's Office Exhibit Section shall temporarily release prior co-defendant exhibits (excluding security exhibits) to the State's Attorney for duplication pursuant to current temporary release procedures. Upon duplication, the State's Attorney shall return the original set of exhibits to the Clerk's Office Exhibit Section, and shall have the original tags affixed to them. State's Attorney duplicate exhibits shall be submitted to the courtroom clerk in the trial court division for marking of the subsequent co-defendant trial.

For any co-defendant exhibits already at the Appellate Court, the trial court will issue a minute entry ordering the duplication of exhibits. A copy of the minute entry will be delivered to the Clerk's Office Exhibit Section. The Clerk's Office Exhibit Section will coordinate with the Court of Appeals for the temporary return of the exhibits for duplication. Upon duplication by the State's Attorney, the Clerk's Office Exhibit Section

will forward to the Appellate Court, the original exhibits in an unaltered condition. The State's Attorney will submit the duplicated exhibit copies to the courtroom clerk in the trial court division for the marking of the subsequent co-defendant trial.

DATED this 22nd day of February, 2007

Barbara Rodriguez Mundell
Presiding Judge

Original: Clerk of the Superior Court

Copies: All Superior Court Criminal Judges and Commissioners
Hon. James H. Keppel, Presiding Criminal Court Judge
Hon. Brian K. Ishikawa, Associate Presiding Criminal Court Judge
Hon. Anna M. Baca, Presiding Criminal Court Judge Designate
Hon. Emmet Ronan, Southeast Presiding Judge
Michael K. Jeanes, Clerk of the Superior Court
Chris Kelly, Chief Deputy Clerk of the Court
Andrew P. Thomas, County Attorney
Philip J. MacDonnell, Chief Deputy County Attorney
Jim Haas, Public Defender
Susan Sherwin, Legal Advocate
Robert S. Briney, Legal Defender
Mark Kennedy, Office of Contract Counsel
Paul Charlton, U.S. Attorney General
Terry Goddard, Arizona Attorney General
Philip G. Urry, Clerk of the Court of Appeals, Division One
David Smith, Maricopa County Administrator
Marcus Reinkensmeyer, Judicial Branch Administrator, Trial Courts
Peter Kiefer, Criminal Court Administrator
Bob James, Criminal Court Administrator Designate